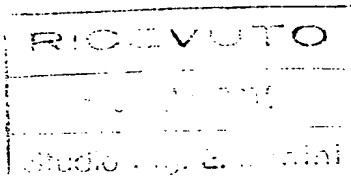


PATENT COOPERATION TREATY

From the
INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY

To:

Bonini, Ercole
STUDIO ING. E. BONINI SRL
Corso Fogazzaro, 8
I-36100 Vicenza
ITALIE



PCT

WRITTEN OPINION
(PCT Rule 66)

Date of mailing
(day/month/year) 04.08.2004

Applicant's or agent's file reference
45.172 XIANG

REPLY DUE within 2 month(s)
from the above date of mailing

International application No.
PCT/EP 03/07394

International filing date (day/month/year)
09.07.2003

Priority date (day/month/year)
10.07.2002

International Patent Classification (IPC) or both national classification and IPC
F24F1/02

Applicant
XIANG SRL et al.

1. This written opinion is the **second** drawn up by this International Preliminary Examining Authority.
2. This opinion contains indications relating to the following items:

<p>I <input checked="" type="checkbox"/> Basis of the opinion</p> <p>II <input type="checkbox"/> Priority</p> <p>III <input type="checkbox"/> Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</p> <p>IV <input type="checkbox"/> Lack of unity of invention</p> <p>V <input checked="" type="checkbox"/> Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</p> <p>VI <input type="checkbox"/> Certain documents cited</p> <p>VII <input type="checkbox"/> Certain defects in the international application</p> <p>VIII <input type="checkbox"/> Certain observations on the international application</p>	<div style="border: 1px solid black; padding: 5px; text-align: center;"> INSERIRE DATI NEL COMPUTER ESEGUITO IL 16/8/04 ES 160 Resp. esaminatore S. 4/10/04 </div>
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3. The applicant is hereby **invited to reply** to this opinion.

When? See the time limit indicated above. The applicant may, before the expiration of that time limit, request this Authority to grant an extension, see Rule 66.2(d).

How? By submitting a written reply, accompanied, where appropriate, by amendments, according to Rule 66.3. For the form and the language of the amendments, see Rules 66.8 and 66.9.

Also: For an additional opportunity to submit amendments, see Rule 66.4.
For the examiner's obligation to consider amendments and/or arguments, see Rule 66.4 bis.
For an informal communication with the examiner, see Rule 66.6.

If no reply is filed, the international preliminary examination report will be established on the basis of this opinion.
4. The final date by which the international preliminary examination report must be established according to Rule 69.2 is: 10.11.2004

Name and mailing address of the international preliminary examining authority:



European Patent Office
D-80298 Munich
Tel. +49 89 2399 - 0 Tx: 523656 epmu d
Fax: +49 89 2399 - 4465

Authorized Officer

Valenza, D

Formalities officer (incl. extension of time limits)
Wagnersen, L
Telephone No. +49 89 2399-5915



I. Basis of the opinion

1. With regard to the **elements** of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this opinion as "originally filed"*):

Description, Pages

1-5 as originally filed

Claims, Numbers

1-9 filed with telefax on 30.06.2004

Drawings, Sheets

1/5-5/5 as originally filed

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- ☐ the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
☐ the language of publication of the international application (under Rule 48.3(b)).
☐ the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
☐ filed together with the international application in computer readable form.
☐ furnished subsequently to this Authority in written form.
☐ furnished subsequently to this Authority in computer readable form.
☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- ☐ the description, pages:
☐ the claims, Nos.:
☐ the drawings, sheets:

5. ☐ This opinion has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)).

6. Additional observations, if necessary:

V. Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**1. Statement**

Novelty (N)	Claims	1,3-5,8,9
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Inventive step (IS)	Claims	2,6,7
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Industrial applicability (IA)	Claims	
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2. Citations and explanations**see separate sheet**

Re Item V

Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

V.1. Reference is made to the following documents:

- D1:** PATENT ABSTRACTS OF JAPAN vol. 011, no. 050 (M-562), 17 February 1987 (1987-02-17) -& JP 61 213529 A (MATSUSHITA SEIKO CO LTD), 22 September 1986 (1986-09-22)
- D2:** FR-A-2 349 105 (RIELLO CONDIZIONATORI GIORDANO) 18 November 1977 (1977-11-18)

V.2. The amended **claims 1-9** filed with the fax dated 30.06.2004 fulfill the requirements of Article 34(2)(b) PCT and therefore they substitute the originally filed claims 1-8 and are incorporated in the application.

V.3. The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of **claim 1** is not new in the sense of Article 33(2) PCT.

V.3.1. The document **D2** discloses (the references in parentheses applying to this document);

- a condenser unit (38) crossed by an external air flowing trough an inlet (20, 22) and an outlet (20, 22);
- an evaporator unit (36) crossed by an internal air flowing trough an inlet (16, 18) and an outlet (16, 18), wherein;
- said condenser and evaporator units are aligned one behind the other (see figure 3) according to an axis parallel to the direction of the external inlet and outlet (20, 22), said inlet (20, 22) and outlet (20, 22) being placed in a substantially horizontal plane and said inlet (20, 22) and outlet (20, 22) consisting of two holes (cf. D2, page 5, line 34 - page 6, line 19 and figure 4).

V.3.2. All the features of **claim 1** are disclosed in **D2**, also the external inlet and outlet holes (20, 22), whose shape is not specified. Therefore **claim 1** cannot be considered new in the sense of Article 33(2) PCT.

V.4. Dependent **claims 2** does not contain any features which, in combination with the features of any claim to which it refers, meet the requirements of the PCT in

respect of inventive step, for the following reasons:

V.4.1. Although in document **D2** the shape of the external inlet and outlet holes is not explicitly specified, the circularity of the shape of at least one of the holes is anticipated, as shown in figure 4 (the external hole (22) surrounds the fan (32)).

The circular shape of the external inlet and outlet holes is merely one of several straightforward possibilities from which the skilled person would select, in accordance with circumstances, without the exercise of inventive skill.

V.5. For the newly filed dependent **claims 3-9**, corresponding to the originally filed claims 2-8, are still valid the objection arisen in paragraphs 2., 2.1., 2.2., 2.3. of the examiner's communication dated 01.04.2004.